

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AKAMAI TECHNOLOGIES, INC. and
AKAMAI SECURITIES CORPORATION,

Plaintiffs,

v.

DEUTSCHE BANK AG,

Defendant.

Civil Action No. 1:10 CV 10254 - JLT

**DEFENDANT DEUTSCHE BANK AG'S MOTION TO EXTEND
TIME TO FILE RESPONSIVE PLEADING TO PLAINTIFFS' COMPLAINT**

Defendant Deutsche Bank AG ("Defendant") hereby moves for an extension of time to answer, move, or otherwise plead in response to the Complaint filed in this action from April 16, 2010 up to and including twenty (20) days from the resolution of the Motion to Stay Pending Arbitration, filed contemporaneously herewith. In support of this motion to extend, Defendant states the following:

1. Pursuant to this Court's March 4, 2010 Electronic Order, Defendant's time to answer, move or otherwise plead in response to the Complaint presently runs through April 16, 2010.

2. Defendant is simultaneously filing a Motion to Stay this action for "control person" liability pending resolution in arbitration of the underlying claims of Plaintiffs Akamai Technologies, Inc. and Akamai Securities Corporation (collectively, "Plaintiffs" or "Akamai") for primary liability against Defendant's subsidiary Deutsche Bank Securities Inc. ("Deutsche Bank Securities").

3. As explained in support of the Motion to Stay, Akamai was a customer of Deutsche Bank Securities, not Deutsche Bank AG. As expressly conceded in the Complaint, Plaintiffs' only claims in this action against Deutsche Bank AG, the ultimate corporate parent of Deutsche Bank Securities, are "control person" liability claims, which are dependent upon the alleged primary liability of Deutsche Bank Securities.

4. As Plaintiffs acknowledge in footnote 1 of the Complaint, their claims against Deutsche Bank Securities are subject to a binding arbitration agreement. Defendant believes that Plaintiffs will commence such an arbitration against Deutsche Bank Securities shortly. Accordingly, Defendant is filing a Motion to Stay this action for vicarious liability pending the resolution of Akamai's underlying claims for primary liability in arbitration.

5. In light of the obvious inefficiencies to the Court and to the parties of engaging in further pleading and motion practice while the Motion to Stay is pending, including briefing and consideration of a motion to dismiss for failure to state a claim and failure to plead with particularity which Defendant intends to file if this action proceeds, Defendant sought Plaintiffs' assent to an extension of the time for Defendant to answer, move, or otherwise plead until such time as the Motion to Stay is resolved. Plaintiffs refused to assent.

6. Defendant thereafter asked Plaintiffs to agree to a short one week extension to give this Court time to consider this Motion to Extend. Again, Plaintiffs refused.

7. This is Defendant's second request for an extension of time to answer, move or otherwise respond to the Complaint. After agreeing to accept service of the Summons and Complaint, Defendant previously filed an Assented-To Motion to Extend the time to answer, move, or otherwise plead from March 17, 2010, to and including April 16, 2010, which this Court granted by Electronic Order on March 4, 2010.

8. Affording Defendant additional time to respond to the Complaint until after the Motion to Stay is decided will not unfairly prejudice any party and is the most efficient way to proceed. Conversely, Defendant will be prejudiced if the Motion to Extend is not granted. If this Court grants the Motion to Stay, no response to the Complaint will be required pending the resolution of arbitration. If the Court denies the Motion to Stay, Defendant will promptly respond to the Complaint within twenty (20) days.

WHEREFORE, Defendant Deutsche Bank AG respectfully requests that this Court enter an Order extending the time for Defendant to file its responsive pleading to Plaintiffs' Complaint up to and including twenty (20) days from the resolution of the Motion to Stay Pending Arbitration, filed contemporaneously herewith.

Dated: April 13, 2010

RESPECTFULLY SUBMITTED:

DEUTSCHE BANK AG,
Defendant,

By its attorneys:

/s/ John A. Pappalardo

John A. Pappalardo, BBO #388760

Victor H. Polk, Jr., BBO #546099

GREENBERG TRAURIG, LLP

One International Place

Boston, MA 02110

Tel.: (617) 310-6000

Fax: (617) 310-6001

LOCAL RULE 7.1(A)(2) CERTIFICATE

I, John A. Pappalardo, hereby certify that we conferred with counsel for Plaintiffs, who do not assent to this Motion to Extend.

/s/ John A. Pappalardo

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent via U.S. first class mail to those indicated as non-registered participants on April 13, 2010.

/s/ John A. Pappalardo